

Policy On Acquired Art

City of Alexandria

CITY OF ALEXANDRIA'S POLICY

FOR THE PURCHASE, COMMISSION AND DONATION OF WORKS OF ART

The purpose of this Policy is to promote and encourage private and public entities to further the development and public awareness of and interest in art and cultural activities in the City of Alexandria. The goal is to integrate art into the City and to encourage economic development, stimulate interest in art and enhance Alexandria's reputation as a national leader in the arts. This Policy seeks to provide for future artistic endeavors and the promotion of Alexandria's cultural heritage, strengthen community pride and foster tourism.

SECTION ONE -- GENERAL

1.01. **RESPONSIBILITY.** The authority for the purchase, commission and acceptance of art by the City of Alexandria (the "City") is with the City Council. It shall be the policy and practice for the City Council to seek a formal recommendation from the Alexandria Commission for the Arts (the "Commission") when art is to be purchased, commissioned or donated to the City or when funding for educational and other art related programs is requested. The Commission and its subordinate body, the Public Art Committee shall act in accordance with this Policy and guidelines established by the Commission.

- a. To encourage artistic expression in Alexandria and ensure diversity of the collection, the City of Alexandria may limit the number of art projects by any one artist that are acquired, donated, commissioned, or funded. The Public Art Committee and the Commission must review all exceptions to this procedure with the final approval by the City Council.
- b. Prior to the approval of any art acquisition, commission, donation, purchase or funding for a program, a site for the work must be pre-identified and approved by the Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with the Commission, the Public Art Committee, and other appropriate City departments or committees. In addition, the art acquisition, commission, donation, purchasing, or funding for a program must be approved by City Council.
- c. The City may negotiate public art pieces on private property as part of the site planning process. The Recreation, Parks and Cultural Activities Department and the Planning and Zoning Department along with other City departments will work with the Commission on these private public art projects.

1.02. **DEFINITIONS.**

- a. Alexandria Commission for the Arts shall be defined as in § 2-4-90 of the Code of the City of Alexandria (1981) as amended.

- b. City Council, shall mean the Alexandria City Council as defined in § 2-1-1, et. seq., of the Code of the City of Alexandria (1981) as amended.
- c. Permanent Works of Public Art or Permanent Art Programs shall mean all works of art purchased, donated, commissioned or funded which shall be displayed or kept for two years or more, and shall be subject to competitive selection. Such process shall have been approved by the Commission and the Public Art Committee. All exceptions to this procedure must be approved by the City Council.
- d. Public Art, as defined by this Policy, encompasses the broadest definition of art including the imaginative use and interplay of all artistic disciplines, including but not limited to performing arts and street fairs. Public art governed by this Policy shall be art that is visually or physically accessible to the public that is acquired by City funds, donated to the City, or approved by the City Council.
- e. Public Art Committee shall be established by the Alexandria Commission for the Arts to advise the Commission regarding the purchase, commission, donation and funding of art.
- f. Public Art Project shall mean:
 - (1) The commissioning of permanent works of art designed for specific public sites in Alexandria;
 - (2) The loan, purchase, donation or commission of art deemed appropriate for public sites;
 - (3) Artists contracted to work as integral members of architectural, infrastructure, and urban design teams; and,
 - (4) Installations, artist-in-residence programs, and other short term projects or planning activities that result in the creation of temporary or permanent public art.
- g. Site Integrated Works of Public Art is art that is physically a part of a facility that cannot be removed or relocated without destroying the artwork. The lifespan of a site integrated work of public art can be temporary or permanent but terminates at the end of the City's ownership or with the demolition of the facility or specific site in the facility such as a wall, floor or outside areas.
- h. Temporary Works of Art or Programs shall mean any art or program which is displayed in a City-owned public place or space for a period up to two (2) years. Temporary works of art may be displayed, commissioned or funded without the use of a competitive selection process.

- 1.03. **PUBLIC ART COMMITTEE.** The Commission shall establish and appoint the members of a Public Art Committee (the "Committee") to advise the Commission on the purchase, commission, donation and funding of art.
- a. The Committee will consist of up to thirteen (13) members as follows:
 - (1) One Commissioner from the Commission for the Arts with expertise in art;
 - (2) Up to four (4) persons who reside or work within the City with expertise in urban planning, landscape architecture and/or architecture;
 - (3) Up to four (4) persons who reside or work within the City such as an artist or art professional;
 - (4) Up to four (4) persons who reside or work in the City with an interest in art;
 - (5) A minimum of three-quarters (75%) of the members of the Committee must be City residents.
 - b. The Chair of the Public Art Committee shall be appointed by the Chair of the Commission for the Arts.
 - c. Committee members will serve three-year terms. Committee members may serve a maximum of two full three-year terms. Members may be reappointed to the Public Art Committee after a hiatus of two years.
 - d. The Committee will make its recommendations to the Commission regarding the acquisition, donation, commission and/or funding of art at the request of City Council as expeditiously as possible.
 - e. Members of the Committee are subject to all conflict-of-interest policies of the City of Alexandria and Commonwealth of Virginia.
- 1.04. **PUBLIC NOTICE.** The public shall be notified of a prospective purchase, commission, donation or funding of art, to the extent practicable, by notification in the local newspaper, on the City's website and/or on the Commission for the Arts website. In addition, a photograph or model or other means of notification may be used. Such notification shall be made at least two (2) weeks prior to the date of the Commission meeting to consider the acquisition, purchase, donation, or funding of the art or program. If the purchase or acquisition involves public funding, notice and information about the public art will be published in the public notice section in a local newspaper and posted on the City's website.

- 1.05. **COMMISSION RECOMMENDATION.** After a review of the Public Art Committee's report, the Commission shall adopt a formal recommendation to be presented to the City Council.
- 1.06. **FUNDING.** Commission funds may be set aside for the acquisition and commission of art in accordance with this Policy. The Commission may also seek other sources of funding for this purpose.
- 1.07. **REFUSAL.** The Commission reserves the right to recommend that the City Council refuse any work of art.
- 1.08. **WORKS OF HISTORIC VALUE.** This policy shall not apply to any existing or future policies and procedures of the City of Alexandria and the Office of Historic Alexandria relating to works of historic interest and/or historic value.
- 1.09. **COMMISSION REVIEW REQUIRED.** Except as provided for in paragraph 1.08., above, all works of art purchased with City funds are subject to this Policy and guidelines promulgated by the Commission.
- 1.10. **ART OWNED, FABRICATED OR DONATED BY A CITY EMPLOYEE.** No work of art owned by, under the control of or fabricated by a City employee shall be eligible for purchase or commission by the City without the prior approval of the City Attorney.

SECTION TWO

RIGHTS AND RESPONSIBILITIES OF THE ARTIST, DONOR AND THE CITY OF ALEXANDRIA

- 2.01. **WRITTEN AGREEMENT.** No work will be purchased (or acquired) without a written agreement between the artist and/or donor and the City. The agreement must be approved by the City Council and signed by the City Manager or his designee. Such agreement shall, prior to its submission to the City Council, be approved by the Commission and, as to its legal sufficiency, by the City Attorney.

In the circumstance where commissioned art is physically part of the building or landscape and is not an independent object or objects that can be safely removed, the City may require the artist to waive all rights that she/he may have under the Visual Artists Rights Act, 17 U.S.C. § 101 et seq. (1990) (“VARA”) to protect the City’s interest, in regards only to the destruction of the art piece. Prior to the destruction of the art, the City will attempt to contact the artist and secure advice on the future of the work that may include redesigning the art for the new situation. In the event that the remodeling of the building or landscape destroys part of the art, the City will deaccession the art and, at the request of the artist, remove any attribution to the artist.

- 2.02. **SITE-SPECIFIC WORKS OF ART.** Unless otherwise agreed to in writing, the artist or donor shall be responsible for fabrication, transportation, installation, and maintenance of the art. The City will not assume liability for injuries to persons or property during installation.
- 2.03. **MAINTENANCE.** The artist or donor shall provide detailed instructions for the maintenance and ongoing care of the art, including future maintenance cost. The artist or donor may be required to fund an escrow account to cover the costs of maintaining the art.
- 2.04. **INSTALLATION.** The artist or donor shall provide detailed instructions for the installation requirements of the art and shall be responsible for fabrication, transportation and installation costs of the art. The artist or donor may be required to escrow funds to cover the costs to install the art.
- 2.05. **RECORDS.** The Commission or its agent(s) will maintain a permanent record of art owned by the City.
- 2.06. **CREDITS.** A notice, including but not limited to, the artist's and/or donor’s name and stating that the City is the owner of the art, will be publicly displayed and identified with the art. In the event the donor requests to remain anonymous, the credit will reflect this.

This notice will be fabricated, installed and paid for by the City. The Commission will approve the design of the notice.

- 2.07. **INSURANCE.** The City will insure, through commercial insurance or its own policy of self-insurance, all completed works of art purchased by the City for amounts and under conditions the City, with the advice of the Commission, deems appropriate. The City will not necessarily insure works of art for the valued amount set forth in an appraisal submitted by donors or other valuations submitted by donors.
- 2.08. **DEACCESSIONING.** Deaccessioning means the formal process used to remove art from the City's collection.
- a. This Policy specifically contemplates that works from the City's collection may, from time to time, be sold or otherwise disposed of.
 - b. In determining whether any art may be deaccessioned, the following factors may be considered:
 - (1) the City's ability to continue properly to preserve or care for the work;
 - (2) the extent to which the work may, in the context of the collection, be surplus, redundant, a duplicate or of inferior quality;
 - (3) the extent to which the disposition of the work may, whether by exchange or through use of proceeds derived from its sale, permit the City to upgrade and refine the collection;
 - (4) whether such work has been found to have been falsely documented, described or attributed and/or to be a forgery;
 - (5) whether the artist or donor has failed to comply with the terms of any contract with the City; and
 - (6) whether deaccessioning of the art would be in the best interest of the City.
 - c. No work that has been acquired by the City with a restriction as to its retention may be deaccessioned while such restriction remains in force. The Department of Recreation, Parks and Cultural Activities through the Commission or designee of its agent shall be notified by the City Council of all such restrictions at the time of acquisition and will maintain a record of those restrictions.
 - d. If art was originally received as a gift from a still-living donor or purchased from a still-living artist, the City will, as a matter of courtesy, notify that person of any determination made by the City to deaccession that work.

- e. The following methods of deaccession may be considered: exchange, public auction and private sale. If the work is sold, the proceeds from the sale of the deaccessioned work will be paid to the City and appropriated to the Commission. The details of the manner in which any deaccessioned work has been disposed of shall be a matter of public record.

2.09. POLICIES SPECIFIC TO DONATED ART.

- a. **LOANS.** The City will consider accepting works of art on loan where it determines that the loan will be in the best interest of the City. All loaned art shall be for a definite time period.
- b. **LIFE ESTATES.** The City will consider accepting the donation of any work of art in which the donor or another person retains an interest for life where it determines that acceptance of the work will be in the best interest of the City.
- c. **FRACTIONAL INTERESTS.** The City will consider accepting the donation of fractional interest of any work of art where it determines that acceptance of the work will be in the best interest of the City.
- d. **COPYRIGHT.** Each donation must be accompanied by a clear statement from the donor regarding ownership of the copyright for the art.

- 2.10. APPRAISALS.** Neither the Commission nor the Public Art Committee will provide to donors appraisals of donated art. The Commission will require a donor to submit an appraisal of the donated art. The appraisal shall be completed by a member of the American Society of Appraisers for insurance purposes. This requirement may be waived at the discretion of the Commission.